

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

PUBLIC INQUIRY ON THE  
CLASSIFICATION OF THE  
INBOUND LETTER POST PRODUCT

Docket No. PI2018-1

**NOTICE OF THE UNITED STATES POSTAL SERVICE  
OF FILING NONPUBLIC FOLDER USPS-PI2018-1/NP1  
AND APPLICATION FOR NONPUBLIC TREATMENT**  
(August 1, 2018)

The United States Postal Service hereby gives notice of the filing under seal of the nonpublic material in the folder indicated below:

USPS-PI2018-1/NP1

Included in USPS-PI2018-1/NP1 are commercially sensitive and privileged materials of the types customarily treated as proprietary and kept confidential. Submitted with this notice is an application for nonpublic treatment of the materials in USPS-PI2018-1/NP1.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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**UNITED STATES POSTAL SERVICE APPLICATION  
FOR NONPUBLIC TREATMENT OF MATERIALS**

In accordance with 39 C.F.R. § 3007.21 and Order No. 225,<sup>1</sup> the United States Postal Service (“Postal Service”) hereby applies for nonpublic treatment of information filed under seal in nonpublic folder USPS-PI2018-1/NP1 in support of its Responses to Commission Information Request No. 1 (CIR) in Commission Docket No. PI2018-1. This consists of commercially sensitive information, including inbound revenue, volume, and weight for Fiscal Year 2017 separated by letter post format, projections of the future performance of the Postal Service and competitors in the inbound and outbound package markets and their submarkets, and market research regarding the inbound package market and its submarkets. As described below, public disclosure of this information would cause significant harm to the Postal Service.

Most of the materials filed under seal in USPS-PI2018-1/NP1 were previously filed under seal with the Commission. On April 6, 2018, the Postal Service filed a Motion for Reconsideration of Order No. 4451 in Docket No. ACR2017, and, in support of that motion, the Postal Service also filed a “NONPUBLIC ANNEX” consisting of four nonpublic attachments. In the CIR (Question 5a) in the present Docket No. PI2018-1, the Commission has specifically requested the Postal Service to file those same four nonpublic attachments from Docket No. ACR2017 in this Docket No. PI2018-1. In Question 5a, the Commission further requested the Postal Service also to file the remainders of those four nonpublic attachments if they were portions of larger documents. Accordingly, as requested by the Commission, the materials filed under

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<sup>1</sup> Order No. 225, Final Rules Establishing Appropriate Confidentiality Procedures, Docket No. RM2008-1 (June 19, 2009).

seal in nonpublic folder USPS-PI2018-1/NP1 include the same “NONPUBLIC ANNEX” that was filed under seal in Docket No. ACR2017, as well as four longer documents from which all pages, except one page, of the four attachments in the “NONPUBLIC ANNEX” were obtained.<sup>2</sup> In Question 5b.i, the Commission also requested the identities of the Postal Service’s third-party consultant sources for those same nonpublic materials, which are provided under seal in nonpublic folder USPS-PI2018-1/NP1.

Another document contains data that were also previously filed under seal with the Commission. In particular, the data in the Responses to Questions 1a and 1c of the CIR in the instant docket were obtained from the data that the Postal Service previously filed under seal on July 17, 2018, in folder USPS-RM2018-8/NP2, in Docket No. RM2018-8, in response to Question 3b of Chairman’s Information Request No. 1 in that docket.

Finally, the Postal Service is filing under seal one response that was not previously filed under seal, though it is related to one of the aforementioned nonpublic attachments. Question 8b seeks the data source of the Postal Service’s estimated average price for cross-border e-commerce transactions as filed under seal as part of one of those nonpublic attachments and the Postal Service’s methodology, which is proprietary, commercially sensitive information of the Postal Service.

**(1) The rationale for claiming that the materials are nonpublic, including the specific statutory basis for the claim, and a statement justifying application of the provision(s);**

Based on its longstanding and deep familiarity with the postal and communications businesses and markets generally, and its knowledge of many firms,

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<sup>2</sup> The one other page from the “NONPUBLIC ANNEX” was not originally part of a larger document.

including competitors, mailers, and suppliers, the Postal Service does not believe that any commercial enterprise would voluntarily publish information pertaining to the volumes, revenues, and markets for its products that are subject to competition, as well as inbound market dominant products for which rates could be negotiated with other postal operators, or its projections or internal predecisional deliberations of future performance and opportunities for growth and competition. In the Postal Service's view, this information would be exempt from mandatory disclosure pursuant to 39 U.S.C. § 410(c)(2), 5 U.S.C. § 552(b)(3), and 5 U.S.C. § 552(b)(5).<sup>3</sup>

The information in the Nonpublic Attachments includes commercially sensitive information regarding Inbound Letter Post packets (E Format), which are subject to considerable competition, and outbound and inbound competitive products. This commercially sensitive information includes proprietary projections of future performance of the Postal Service and its competitors in international markets, measured by volume and revenue, and information regarding shape-based volume for Inbound Letter Post and other inbound and outbound package products, many of which are competitive. Importantly, there is no publicly available information on Inbound Letter Post volumes by shape, even an aggregated level.

The Postal Service is just one of the participants operating in the competitive market for inbound and outbound international shipping, which includes inbound small

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<sup>3</sup> In appropriate circumstances, the Commission may determine the appropriate level of confidentiality to be afforded to such information after weighing the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets. 39 U.S.C. § 504(g)(3)(A). The Commission has indicated that "likely commercial injury" should be construed broadly to encompass other types of injury, such as harms to privacy, deliberative process, or law enforcement interests. Order No. 194, Second Notice of Proposed Rulemaking to Establish a Procedure for According Appropriate Confidentiality, Docket No. RM2008-1 (Mar. 20, 2009), at 11.

packets containing merchandise. There are currently almost 200 Extraterritorial Offices of Exchange (“ETOEs”) operating worldwide, at least 40 of which operate in the United States.<sup>4</sup> The operators of ETOEs compete for business in the same markets as the Postal Service and other foreign posts operating in their home territories, including letter post mail. In addition, there are a number of private-sector international mailing operators and integrators that compete with the Postal Service for certain portions of the inbound and outbound package market, offering products similar to small packets.

The Postal Service would suffer harm from public disclosure of the information contained in in USPS-PI2018-1/NP1, and the resulting competitive advantage obtained by competitors and potential competitors of the Postal Service.

**(2) Identification, including name, phone number, and email address for any third-party who is known to have a proprietary interest in the materials, or if such an identification is sensitive, contact information for a Postal Service employee who shall provide notice to that third party;**

The Postal Service is not aware of any third-party with a proprietary interest in the nonpublic materials, and will update this Application if it becomes aware of any third-party with such an interest.

**(3) A description of the materials claimed to be nonpublic in a manner that, without revealing the materials at issue, would allow a person to thoroughly evaluate the basis for the claim that they are nonpublic;**

Nonpublic Attachment 1 provides information regarding the Postal Service’s market share in the inbound package market, based on revenue, and projections and internal deliberations regarding future changes in the Postal Service’s market share and opportunities in the market; Nonpublic Attachment 2 provides shape-based volume

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<sup>4</sup> See UPU, International Mail Processing Centres, 108b\_IMPC-Open\_offices.xlsx, available at <http://www.upu.int/en/activities/standards/impcs.html>.

information for inbound packages shipped to the U.S.; Nonpublic Attachment 3 provides market research information regarding the competition of consolidators and ETOEs in discrete international markets, and projections regarding the future impact of such competition on the Postal Service; and Nonpublic Attachment 4 provides information regarding the Postal Service's market share in the outbound packet market, based on volume, and projections regarding future changes in the Postal Service's market share and opportunities in the market. Because this information constitutes commercially sensitive information and should not be publicly disclosed, the Postal Service is filing all such information under seal.

**(4) Particular identification of the nature and extent of commercial harm alleged and the likelihood of such harm;**

If the information in in USPS-PI2018-1/NP1 were to be disclosed publicly, the Postal Service considers it quite likely that it would suffer commercial harm. The information contained in in USPS-PI2018-1/NP1 is commercially sensitive, and the Postal Service does not believe that it would be disclosed under good business practice. In this regard, the Postal Service is not aware of any business with which it competes (or in any other commercial enterprise), either within industries engaged in the carriage and delivery of materials and hard copy messages, or those engaged in communications generally, that would disclose publicly information and data of comparable nature and detail.

The information in in USPS-PI2018-1/NP1 provides valuable insights regarding Postal Service plans and expectations for certain products and markets, proprietary methodologies and sources for evaluating those products and markets, internal deliberations for product and market strategies, and potential business opportunities in

international markets, and can be used by competitors and potential competitors in the shipping and delivery industries to make decisions regarding product modifications, entry into new markets, and enhancement of current operations in existing markets, and disclosure of this information would increase the likelihood that such decisions would lead to loss of revenue and market share for the Postal Service. The Postal Service believes that this information would lead to competitive harm, if publicly disclosed.

Much of the market research information included in in USPS-PI2018-1/NP1 is obtainable only after substantial investment, and to obtain this market research, the Postal Service utilized resources that could otherwise have been used for other business functions. If competitors of the Postal Service were able to access this market research through this docket, they would benefit from the market research developed through the Postal Service's investment without incurring the costs required to develop such research independently. Competitors would obtain a competitive advantage over the Postal Service because they would be able to reallocate resources reserved previously for market research to other business functions.

It is highly likely that, if the information in in USPS-PI2018-1/NP1 were made public, the Postal Service's competitors would take advantage of it immediately.

In addition to the competitive harm that would flow directly from competitors having gained access to nonpublic, commercially sensitive and valuable information, the Postal Service would also suffer a chilling effect on its future internal decisionmaking processes because of the public exposure of its internal privileged, predecisional, and deliberative communications and analyses.

The Postal Service considers it highly probable that the outcomes described above would result from public disclosure of the information in in USPS-PI2018-1/NP1.

**(5) At least one specific hypothetical, illustrative example of each alleged harm;**

The following section describes the harms discussed above and presents at least one hypothetical situation illustrating the consequences of disclosure.

**Harm: Competitors could use volume information, disaggregated by shape, to gain knowledge and insights about the relative strengths and weaknesses of the Postal Service's business related to outbound mail with certain shapes. That refined understanding would, in turn, give competitors advantages in seeking to divert business from the Postal Service and to gain new business for which the Postal Service might compete, and in allocating resources in a more efficient manner. As a result, the Postal Service would experience losses of existing and new business, and erosion of contributions and margins.**

**Hypothetical:** The information in in USPS-PI2018-1/NP1 is released to the public and becomes available to a competitor. The competitor assesses the financial performance of products with a certain shape based on the information released. The competitor then targets its advertising and sales efforts at actual or potential customers in market segments associated with certain-shaped products, thereby hindering the Postal Service's ability to keep this business.

**Harm: Competitors could use information regarding Postal Service projections concerning changes in Postal Service market share and the overall market to gain knowledge and insights about the Postal Service's plans for future business operations and the actions that it would likely take in response to certain events or competitor initiatives. That refined understanding would, in turn, give competitors advantages in developing business strategies regarding inbound package products and market entry and expansion to divert business from the Postal Service and to gain new business for which the Postal Service might compete, and in allocating resources in a more efficient manner. As a result, the Postal Service would experience losses of existing and new business, and erosion of contributions and margins.**

**Hypothetical:** The information in in USPS-PI2018-1/NP1 is released to the public and becomes available to a competitor. The competitor assesses the Postal Service's



projections for the inbound package market overall, and the Postal Service's performance in that market. The competitor incorporates this information into its analysis, and identifies these projections as a significant consideration in the Postal Service's future business decisions. With this knowledge, a competitor is better able to predict the likely response of the Postal Service to certain events or actions by the competitor, and incorporates these informed predictions into its business strategy. The competitor then is able to adopt business strategies that enable it to compete more effectively with the Postal Service, leading to loss of revenue and volume for the Postal Service.

**Harm: Public disclosure of the Postal Service's internal predecisional and deliberative analyses could undermine the integrity of its decisionmaking processes and chill its future ability to assess its own strengths and vulnerabilities and plan market strategies and public positions.**

**Hypothetical:** The information in USPS-PI2018-1/NP1 is released to the public. Much of it consists of internal privileged, predecisional, and deliberative communications and analyses used to help the Postal Service in its internal decisionmaking processes. Disclosure to the public may reveal the Postal Service's weighing of its own strengths, challenges, and vulnerabilities. This information is valuable to competitors in the marketplace that may then use it to plan their own competitive strategies. At the same time, it also could expose the Postal Service's own predecisional assessment of various alternative courses of action, which, if disclosed, could undermine its eventual actions in the marketplace and its final positions in public advocacy. That exposure, in turn, would lead to a chilling effect on the Postal Service's internal deliberations in the future, causing stakeholders within the Postal Service to refrain from frank and open internal

exchanges with each other that could otherwise help the Postal Service make the best ultimate choices in fulfilling its mission.

**Harm: Competitors could use disaggregated product volume, weight, and revenue information to assess vulnerabilities and focus sales and marketing efforts to the Postal Service's detriment.**

**Hypothetical:** The information in USPS-PI2018-1/NP1 is released to the public and becomes available to competitors. Competitors use the disaggregated volume, weight, and revenue data to target their sales and marketing efforts based on the distributions of Postal Service product and perceived strengths and weaknesses. Disclosure would also compromise the Postal Service's position in negotiating favorable terms with foreign postal operators and potential customers, who would be able to use the data to understand the Postal Service's business and product trends (e.g., average revenue or weight per piece).

**Harm: Competitors could use market research information regarding the inbound and outbound package markets developed by the Postal Service, including its proprietary methodologies and data sources, to gain knowledge and insights about the inbound and outbound package markets. The acquisition of this essential market research at minimal cost would enable competitors to increase the resources available for business operations other than market research. As a result, the Postal Service would be forced to incur a cost for market research that is not required for its competitors, which would put it at a competitive disadvantage and lead to losses of existing and new business, and erosion of contributions and margins.**

**Hypothetical:** The information in USPS-PI2018-1/NP1 is released to the public and becomes available to a competitor. The competitor accesses market research information regarding the inbound and outbound package markets and the competitive capabilities of ETOEs and consolidators, and incorporates this market research into its business strategies. Having obtained valuable and essential market research at a minimal cost, the competitor then reallocates resources reserved previously for market

research to other business operations. Due to its lower market research costs and increased resources for other business operations, the competitor is able to compete more effectively with the Postal Service, leading to loss of revenue and volume for the Postal Service.

**(6) The extent of protection from public disclosure deemed to be necessary;**

The Postal Service maintains that the portions of the materials filed nonpublicly should be withheld from persons involved in competitive decision-making in the relevant markets for competitive delivery products (including private sector integrators and foreign postal operators), as well as their consultants and attorneys. Additionally, the Postal Service believes that actual or potential customers of the Postal Service for these or similar products should not be provided access to the nonpublic materials.

**(7) The length of time deemed necessary for the nonpublic materials to be protected from public disclosure with justification thereof; and**

The Commission's regulations provide that nonpublic materials shall lose nonpublic status ten years after the date of filing with the Commission, unless the Commission or its authorized representative enters an order extending the duration of that status. 39 C.F.R. § 3007.30.

**(8) Any other factors or reasons relevant to support the application.**

None.

***Conclusion***

For the reasons discussed, the Postal Service asks that the Commission grant its application for nonpublic treatment of the materials filed under seal in in USPS-PI2018-1/NP1.